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LEO FRANK FAILS TO GET NEW
TRIAL,

CONLEY'S TESTIMONY IS
HELD VALID

PDF PAGE 1, COLUMN 3

Fight for Frank's Life

*May Last for Many
Months;*

*What Procedure
Will Do*

A Motion to Reargue
Case Be-

fore State Supreme Court Will Probably Be First Step. Then Motion for New Trial

While neither Luther Z. Rosser nor Reuben R. Arnold, the principal attorneys for Frank, would make a statement following the announcement of the supreme court's decision, it is known that the fight for the convicted man's life is far from ended.

First, in view of the dissenting opinions of two of the six justices, a motion to reargue the case before the state supreme court is likely. This being denied, attorneys for Frank are expected to make an effort to get the case into the United States court on the broad ground that Frank has been deprived of his liberty without due process of law meaning that he had an unfair trial.

An extraordinary motion on the ground of newly discovered evidence can follow or precede an effort to get the United States courts to pass upon the case.

An extraordinary motion for a new trial would be brought in the trial court—the criminal division of the superior court of the

Atlanta circuit—and if denied by the presiding judge, it could be Ben H. Hill, it could be appealed to the supreme court.

Finally, of course, there is an appeal to the governor for pardon or clemency.

Solicitor General Dorsey is said to hold the opinion that 110 constitutional question is involved which will permit the cage to go to the United States supreme court.

The famous case of Dr. J. W. McNaughton, and several other Georgia cases of more or less note have remained in the courts for several years, while all the known appeals were being exhausted by the defendant's counsel, and it is extremely probable that it will be many months, if not several years. before the fate of Frank is definitely known.

PDF PAGE 1, COLUMN 5

CONLEY'S EVIDENCE

PREJUDICIAL, SAYS

DISSENTING OPINION

Chief Justice W. H. Fish
and

Associate Justice
Marcus

Beck File Dissenting
Opinion

in Frank Case

**DALTON'S
TESTIMONY IS**

PLACED IN SAME CLASS

Opinion Declares That
Acts of

Defendant With
Others Than

Slain Girl Prior to
Killing,

Inadmissible

The dissenting opinion of Chief Justice Fish and Justice Beck covered fifty-three pages, and dealt almost exclusively with their belief that the evidence of Jim Conley and Dalton was irrelevant, immaterial and prejudicial, and therefore was inadmissible. The testimony of those two witnesses that was objected to related affairs by Frank with other women than the murdered girl.

These justice held that an accused person cannot be expected to come into court and meet accusations other than

those contained in the bill of indictment against him. Persons not trained to legal processes of reasoning (as jurors, for instance) are liable to be influenced by such irrelevant evidence and conclude that a person who has committed one crime may commit another crime of the same character.

THE OPINION.

The following excerpts are taken from the conclusion of the dissenting opinion:

“In the case at bar, the other justices say in the prevailing opinion that the evidence of Conley as to the prior acts of lasciviousness on the part of the defendant with other women was properly admitted in evidence, because they tended to ‘show a common scheme or plan of related offenses.’”

“We take issue with them on this proposition.”

“In reference to the theory of admitting evidence of other offenses as showing a design or plan or system on the part of the defendant to permit the crime for which he is on trial, Professor Wigmore says: ‘The object here is not simply to negative any innocent intent at the time of the act charged, but to prove a pre-existing design, system, plan or scheme directed forward to the doing of that act. In the former case (of intent) the attempt is simply to negative the innocent state of mind at the time of the act charged. In the present (design or system) the effort is to establish a definite prior design or system which included the doing of the act charged as a part of its commission. In the former case (intent) the result is to give a complexion to the conceded act or acts with them. IN the present case (plan or system) the result is to show (by probability) a positive design which in its terms is to evidence (by probability) the doing of the act designed. The added element, then, must be, in merely a similarity in the result, such a concurrence of common features

that the various acts are only to be explained as part of a general plan of which they are the individual manifestations.”

CONCLUSION.

The dissenting opinion concluded as follows:

“It is perfectly clear to us that evidence of prior acts of lasciviousness committed by the defendant with other women at and near the place where the deceased was assaulted and killed, considered in connection with the circumstances set forth in the opinion of the majority of the court, did not tend to prove a pre-existing design, system plan or scheme directed forward to the making of an assault upon the deceased or killing her to prevent its disclosure. They did not show nor tend to establish, in our opinion, any prior design or system on the part of the defendant which included the doing of the act charged in the indictment against him as a part of its consummation. They were wholly independent acts, having, as we think, absolutely no connection with the offense charged in the indictment, and the admission of the evidence in relation to them was certainly calculated to prejudice the defendant in the minds of the jurors and thereby deprive him of a fair trial.”

“For reasons which we have assigned in showing that the evidence of Conley with which he have specifically dealt was inadmissible we think that other evidence in the record which was objected to, tending to show independent acts of lasciviousness on the part of Frank or improper conduct of his with other parties at other times, was inadmissible. And all that we have said in demonstrating the inadmissibility of the testimony of the witness Conley as to different and independent acts of lasciviousness, is equally applicable to the testimony of the witness C. B. Dalton set out in the twenty-first and twenty-second grounds of the motion for a new trial.”

OTHER GROUNDS.

“Certain other grounds assigned error upon rulings admitting testimony over objections. Some of these grounds were not urged in the brief of counsel for plaintiff in error, others show the admission of evidence clearly irrelevant but which was not, independently of the evidence which we have endeavored in the foregoing opinion to prove inadmissible, of sufficient materiality to amount to cause for granting a new trial.”

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SUPREME COURT HOLDS

A FAIR TRIAL WAS GIVEN

DEFENDANT BY ROAN

Chief Justice Fish and Associate Justice Beck
Dissent, Giv-

ing Their Belief That the Testimony of Jim Conley and

Dalton Was Irrelevant, Immaterial and Prejudicial and

Therefore Inadmissible

STATE HAS RIGHT TO ASK CERTAIN QUESTIONS

CONCERNING DEFENDANT'S CHARACTER, IS HELD

Justices Atkinson, Evans, Lumpkin and Hill in Assenting

Opinion Hold That Conley Had Right to Explain Remark

Which He Attributed to Frank by Relating Previous Trans-

actions of the Accused- Known to Conley

The supreme court of Georgia, with two justices dissenting, Tuesday affirmed the Fulton superior court's verdict of guilty in the case of Leo M. Frank, convicted of the murder of Mary Phagan. While, generally final the decision of the supreme court in this instance does not mean that the fight for Frank's life is ended, and while his attorneys have made no statement it is probable that the case will be kept in the courts for months. The dissent of two of the justices, Fish and Beck, is based upon the

theory that the superior court erred in admitting the testimony of James Coney and O. B. Dalton to the effect that Frank had met women the factory for an immoral purpose before the date of Mary Phagan's murder.

The opinion of Justice Atkinson, who wrote the decision, and Justices Evans, Lumpkin and Hill, who agree, is that under the circumstances to the Frank case it proper to show the defendant's relations with other women.

From a public, if not legal standpoint, the most important statement in the main opinion of eighty-nine typewritten pages is contained in the last headnote, which says:

Evidence Supports the Verdict.

"The evidence supports the verdict and there was no abuse of discretion in refusing a new trial."

In the entire decision there are approximately 35,000 words in 142 pages, 58 of which are used in the dissenting opinion.

The supreme court held that it was proper for the state to introduce, after Frank's character had been put in issue, not only his general character, but his character to lasciviousness as well.

In view of the testimony of Dr. H. F. Harris about the condition of the body of the girl, the court held that the testimony charging Frank with perversion was properly admitted.

The court held that the failure of the defense to cross examine state's witnesses, who swore that Frank's character was bad, was legitimate ground for argument by the state's counsel.

The opinion states that the court does not consider the oral remarks of a trial judge in denying a motion for a new trial, when there is nothing in the written decision to show that he was

dissatisfied with the verdict or had failed to exercise proper discretion.

Disorder in Court Not Sufficient.

The alleged disorder in the court room during the trial, and when the verdict was rendered, was not of such a character as to warrant the granting of a new trial, the supreme court holds, and the opinion also holds that Judge L. S. Roan, the trial Judge, was right in overruling the motion for a new trial on the ground that two of the jurors were prejudiced against the defendant before the trial.

The fact that Judge Roan allowed the solicitor general to contradict the remarks of one of Frank's attorneys about the famous Durant case in California was not an error, the supreme court held.

The decision of the supreme court was announced about 11 o'clock Tuesday. A few minutes later Solicitor General Hugh M. Dorsey gave to The Journal a statement, declaring that there is not the shadow of doubt in his mind as to the guilt of Frank. Although quoted many times before, Mr. Dorsey declares that this is the first statement about Frank's guilt, which he has authorized.

Rabbi David Marx, a staunch friend of Frank throughout his troubles, went to the Tower with J. C. Loeb, a cousin of Mrs. Frank, immediately after the supreme court's decision was announced.

Frank was calm and stoical. He could hardly believe the news.

Luther Z. Rosser and Reuben R. Arnold, the principal attorneys for Frank, went to capitol soon after the decision and commenced a study of the opinions. Neither would forecast the next move of the defense.

It is within the province of the solicitor general to immediately hale Frank before Judge Ben H. Hill, who is now presiding in the criminal division of the superior court, in order that he can be re-sentenced. However, it is not probable that a move to resentence Frank will be made before next week. According to the law at least twenty days and not more than sixty days must expire between the date of the sentence and the date of the execution.

The decision of the supreme court makes the trial of Jim Conley as an accessory after the fact of the murder a certainty for the week of February 23.

Head Notes of Opinion From the Supreme Court

The head notes of the decision in the Frank case read as follows: the trial of one accused of the murder of a young girl in factory building of which he was superintendent where, circumstantial evidence is relied largely if not wholly to the defendant's guilt it is not sufficient cause for a new trial under the special fact of the case that the state was permitted to prove the demeanor of the night watchman of the factory and also that of accused on the morning after the discovery of the body.

"2. A young girl was killed in a pencil factory on Saturday after noon, which was also a public holiday, when the factory was not in operation. The evidence showed that she went to the office of the superintendent for her pay, and no witness testified to having seen her alive thereafter. There was other evidence from which the Jury might infer that the killing occurred in a room on the same floor where the office of the superintendent was. An employee of the factory, who was present in the building that on that morning the accused had said to him that he desired the witness to watch for him as the witness had been doing the rest

of the or 'other Saturdays, that he did watch at the door when the girl went up to the office of the accused: that he heard her scream; that subsequently the accused called on him to assist in removing the body of the deceased.

Court Did Not Err in Admitting Conley's Evidence

"He also testified to certain signals given by the accused to him while watching. Held, that it was competent to show by the witness how he had been watching for the accused on previous Saturdays, and

(CONTINUED ON PAGE FOUR, COL. ONE)

PDF PAGE 4, COLUMN 1

LEO FRANK LOSES HIS APPEAL TO GEORGIA
SUPREME COURT

**FAIR TRIAL WAS
GIVEN.**

**SUPREME COURT
HOLDS**

(Continued from Page One)

to explain the system of such alleged signals employed by the accused, and the reference thereto by the accused.

“(a) The same witness testified that after the girl had gone to the office of the accused, he had heard footsteps going in the direction of the place where he first saw the body, and after hearing the scream and the signal from the accused, the latter told the witness that he wanted to be with a little girl,’ and she refused him, and he struck her and guessed he struck her too hard, and she fell and hit her head against something, and he did not know how badly she was hurt. Witness then said that the accused added: ‘Of course, you know I ain’t built like other men.’ From the condition of the body it might have been inferred that the person who did the killing sought to have a sexual relation, natural or unnatural, with the deceased, and that the blow did not cause death, but it was brought about by choking the deceased with a cord. Held, that it was relevant to explain the expression above quoted to show previous transactions of the accused, known to him and to witness, which indicated that his conduct in sexual matters differed from that of other men.”

A’s a General Rule Certain Evidence Is Inadmissible

“(b). As a general rule evidence of the commission of one crime is not admissible upon a trial for another, where the sole purpose is to show that the defendant has been guilty of other crimes, and would, therefore, be more liable to commit the offense charged; but if the evidence is material and relevant to the issue on trial, it is not admissible because it may also tend to establish the defendant’s guilt of a crime other than the one charged.”

“(c). Under the rule just announced, the evidence of the witness above mentioned, which it was sought to withdraw from the jury, and also the evidence of another witness, which corroborated him in regard to other improper transactions with women, in which the accused took part, occurring at the same place, not a great while before the homicide, and in regard to the watching by the first witness, while lascivious practices were being engaged in at that place, and in regard in at that place, and in regard to compensating him thereafter, was admissible, as throwing light upon the motive of the accused and also as indicating his design or schemes in regard to his practices at that place, in connection with which the evidence authorized the jury to find that the murder occurred, and tending to show the identity of the criminal.

Paragraph 3: Under the facts of the case, it was irrelevant to show ... to circumstance indicating a consciousness of guilt that the defendant who had manifested interest in, secreting out the perpetrator of the homicide for the commission of which he was subsequently indicted and had taken part in the employment of detectives for that purpose and had interviewed one person suspected and refused an interview to one indicating that the defendant was aware of the witness' knowledge to the defendant's guilt, when such interview was proposed by detectives including the one he had employed.

“Paragraph 4. Where the testimony of a witness is competent, he may be permitted to give the details of experiments on which his testimony is based.”

Health Board Controversy

Foreign to This Case

“Paragraph 5. The details of a controversy between the former president and secretary of the state board of health in their official relations was foreign to any issue involved in the trial of the case. The testimony was provoked by a question propounded by counsel for the defense who directed examination of his witnesses. The testimony did not tend to obscure any issue in the case of prejudice the defendant, and the deception in evidence of the excerpt from the minutes of the state board of health dealing with such controversy is no ground for a new trial

“6. Where it was material to show at what time the girl who was killed arrived at the factory at which the homicide occurred, and after this point the contentions of the state and the accused differed, as well as Regard to the point at which she left the street car on which she came from her home, and the defendant introduced evidence to show the scheduled time at which the car was able to arrive at a certain point where it was claimed on behalf of the state that she left it, and the time it would require for the car to go from that point to another at which the accused claimed that the car alighted, as well the testimony of certain witnesses that the car in question reached the first point at the time fixed by the schedule (specifying it,) and one of them testified on cross-examination that we never arrive in advance of schedule time; and where the defendant also introduced other evidence as to schedules of the street cars on another route ... the effort to account for the defendant’s presence at other places at such times during the day, it was competent for the solicitor general to thoroughly sift the witnesses introduced by the accused on cross-examination, and also to introduce evidence in rebuttal tending to show, in addition to the fact that the testimony of a witness for the accused was inexact in regard to the schedule that in fact the car on the line traveled by the girl in going from a home to the factory frequently arrived at the point above mentioned several minutes in advance of schedule time.

Laying Foundation for the Impeachment of Witnesses

(a). If in any respect the cross-examination or the evidence introduced in rebuttal was not strictly within the proper range of such evidence, it was not of such a character as to require a reversal.

“7. The testimony referred to in the seventh division of the opinion was relevant, and properly received in the court.”

“8. A witness testified to matters material to the defense. She was asked if her wages had not been increased by the parent of the accused’s wife and if a gift had not been made to her by the wife of the accused and answered in the negative. Upon laying the proper foundation for impeachment, it was competent to introduce her own affidavit and the testimony of another witness to show that she had made statements contradictory of her testimony stated above.”

“9. On the trial of one for the murder of a female where the testimony tended to show that the garments of the victim of the homicide were torn and her...organs had suffered... violence, ... and the defendant introduced a witness to establish his good character, it was competent on cross-examination to ask such witness if he had not heard of certain lascivious acts of the defendant with other females.

“10. Likewise, under the circumstances referred to, the preceding note, where the defendant introduced evidence of his good character, the prosecution could reply by offering proof of his general bad character for lasciviousness.”

“11. Where the court instructs the jury under degree and strength of circumstantial evidence essential to a conviction, in the language of the statute, it is general not ground for a new trial that he declines to give a written request abstractly elaborating this principle evidence.”

Regarding Disorder in Court

And Judge Roan's Remarks

“(a.) The requests set out in grounds 60, 61 and 62 of the motion for a new trial are not so accurate or appropriate as concrete application of the principle involved as to render the failure to give them cause for a new trial.

“12. As pointed out in the twelfth division of the opinion, the request to charge as therein set out invaded the province of the jury, and was properly refused.”

“13. Where a defendant puts his character in issue, and the prosecution offers rebuttal evidence, tending to show that his general character in respect to a trait involved in the case is bad, failure to cross-examine the rebutting witnesses is legitimate ground for argument. Likewise, counsel for the state may discuss any feature of the defendant's statement.”

“14. In view of the reference which had been made by one of counsel for the accused to the circumstances of a celebrated criminal case, occurring in California, and of his concession of the right of the solicitor general to likewise discuss the facts of that case and upon general information in regard to it, no objection was raised to the reading of a telegram sent to and a letter received from the district attorney in San Francisco, there was no

error in allowing the solicitor general to proceed with his argument on that subject without reading such telegram or letter.”

“(a). Nor did it furnish cause for granting a new trial that the presiding judge did not charge to the effect that the facts of the case above mentioned and other celebrated cases referred to by the solicitor general in his argument should have no influence upon the jury in making their verdict, and that they should try this case upon its own facts and the evidence introduced therein, it not appearing that any ruling was invoked in regard to the argument of cases other than that above mentioned, or, that any written request was made invoking a charge of the character indicated.”

MEDICAL WITNESSES.

“15. Whether or not, the argument of the solicitor general, seeking to deduce an inference from the examination on behalf of the accused certain medical witnesses and from their testimony, that they must have been summoned because of being family physicians and well-known to some of the members of the jury, was illogical or well-founded, under the colloquy which was had by counsel among themselves and with the court, and the statements solicitor general or stop him from making such argument will not, under the facts of the case, require a reversal.

“16. The alleged disorder in the court room during the progress of the trial was not of such character as to impugn the fairness of the trial, or furnish sufficient grounds for reversing the judgement refusing a new trial.”

“(a). The court was authorized from the evidence to find that certain cheering or applause outside of the court room, referred to in the sixteenth division of the opinion, was not heard by the jury, and that they did not have knowledge of the same until after the verdict was returned.”

“17. Where a verdict is received in open court, and a poll of the jury demanded, and while the poll is being taken loud cheering from persons on the outside is heard, and which is continued until after the poll is concluded, and where from the evidence the court is authorized to find that the jury was not influenced to render other than true answers to the questions propounded, the circumstances of the cheering on the outside is not a sufficient ground to require a new trial.”

JUDGE ROAN’S REMARKS.

“18. On conflicting evidence, the judge on the hearing of the motion for a new trial, acting as trier, did not err in holding that the jurors whose impartiality was attacked were competent.”

“19. When the order overruling a motion for new trial contains nothing to indicate that the judge was dissatisfied with the verdict, or that he failed to exercise the discretion required of him by law, the supreme court will not, in determining whether the judge has exercised such discretion, consider oral remarks made by him pending the disposition of the motion.”

“20. The evidence supports the verdict, and there was no abuse of discretion in refusing a new trial.”

Trial Judge’s Expression of Doubt no Ground for Reversal

In the main opinion of the four justices, upholding the lower court, there occurs the following comment on that

Chronological Story Of Developments In the Frank Case

A chronological table showing the important dates in the famous Frank case is as follows:

April 26, 1913—Mary Phagan killed in factory of National Pencil company, 37 Forsyth Street.

April 27—Body of Mary Phagan discovered in basement of factory by Newt Lee, negro night watchman, about 3 o'clock in the morning.

April 29—Leo M. Frank, superintendent of pencil factory and last man who saw Mary Phagan in life, is arrested.

May 24—Grand jury returns indictment against Frank

charging him with murder of Mary Phagan.

July 28—Frank placed on trial before Judge L. S. Roan, of Fulton superior court.

August 25—Jury finds Frank guilty.

August 26—Frank is sentenced to be hanged.

October 22—Frank's attorneys begin argument on motion for new trial before Judge Roan.

August 31—Judge Roan refuses to grant new trial.

December 15—Frank's attorneys argue motion for new trial before supreme court of Georgia.

February 17, 1914—Supreme court refuses to grant new trial.

ground of the motion for a new trial which cited Judge Roan's remarks at the time he denied that motion in the lower court:

"The bill of exceptions recites that the judge orally stated that the jury had found the defendant guilty; that he, the judge, had thought about this case more than any other he had ever tried; that he was not certain of the defendant's guilt; that with all the thought he as put on this case he was not guilty or innocent, but that he did not have to be convinced; that the jury was convinced; that he felt it his duty to order that the motion for a new trial be overruled."

"It is insisted that the remarks made by the judge in denying the new trial indicated judicial disapproval of the verdict."

"We do not think so. The jury found the accused guilty. The court was called upon to determine whether under the record—

the defendant should be granted a new trial. He refused it, and the rule in such cases is; that even if the court should consider a case weak, yet, if he overrules the motion for a new trial, one ground of which is that the verdict is contrary to law and evidence, his legal judgement expressed in overruling the motion will control; and if there is sufficient evidence to support the verdict this court will not interfere because of the judge's oral expression as to his opinion. *Bray vs. State*, 69 Ga., 765 (4); *Sav., Fla.* And *Western Ry C.o. vs. Steinhouser*, 121 Ga., (2)."

Evidence Is Sufficient To Uphold

The last paragraph of the main opinion is as follows:

"The record in this case is voluminous. We have attempted to group the various assignments of error so as to bring the opinion within reasonable grounds. Some of the points are deemed of minor importance, not amounting to error, and some of them were not referred to in the briefs, and therefore no specific reference is made to them. We have given careful consideration to the evidence, and we believe that the same is sufficient to uphold the verdict; and, as no substantial error was committed in the trial of the case, the discretion of the court in refusing a new trial will not be disturbed.

"Judgement affirmed. All the justices concur, except Fish, C. J., and Beck, J., dissenting."

The main body of the opinion commented as follows on the ground alleged in the motion for new trial that the court had erred in permitting Solicitor General Dorsey in his argument to comment on the failure of Mrs. Frank to visit her husband right after he was accused of the murder.

“Exception was also taken to the court’s permitting the solicitor general in his argument to comment upon the failure of counsel for the defendant to cross-examine certain witnesses offered by the state; and also to comment upon the failure of the wife of the accused to visit him in jail. What has just been said (overruling another ground) covers the first of these complaints.”

“As to the latter, the accused in his statement had referred to the failure of his wife to visit him soon after his incarceration, and had given an explanation of it; and the solicitor had a right to comment on the statement.”

What Court Says About Prejudice of Two Jurors

Paragraph 18 of the main opinion referred to bias alleged against the two jurors, Jochenning and Henslee:

“The 73rd ground of the motion for a new trial is ‘Because the Juror A. H. Henslee was not a fair and impartial juror, but prejudicial against the defendant when he was selected as a juror, and previously thereto had expressed a decided opinion as to the guilt of the defendant, and when selected as a juror was biased against the defendant in favor of the state.’”

“The movant submitted evidence tending to show that previous to the trial, this particular juror had made certain expressions to different people, indicating a strong bias and prejudice against the accused. The juror denied under oath having made any statement, in substance, that he was biased and prejudiced against the accused, and on the other hand positively affirmed and he was unprejudiced against the accused, and that his mind was perfectly impartial during the trial. The rule is clear that when the impartiality of a juror is challenged on a motion for a new trial, the judge becomes a trio as to the issue

made and his judgement will not be disturbed unless it appears that there has been an abuse of discretion. Wall vs. State, 126 Ga., 549 (4). On the conflicting evidence there was no abuse of discretion in the case.”

“Another juror, M. Jochenning, was attacked, but under the conflicting evidence we think the court did not abuse his discretion in holding that he was not prejudiced or biased.”

Practically without exception, Solicitor Dorsey was upheld on every point by the supreme court. Points made against him by the defense on his methods or argument, of examination of witnesses, on the testimony he introduced, dismissed with specific declaration by the court upholding the solicitor. cursory examination of the voluminous opinion had not disclosed, several hours after the opinion became public, a single instance where the court ruled otherwise than specifically with the solicitor.

CONLEY SAYS HE KNEW

FRANK WOULD LOSE CASE

“They’ve Got the Right Man

Down Here and Frank Knows It," Negro Says

Jim Conley, the negro on whose testimony largely rested the state's case in the trial of Leo Frank, and who has since been held at the Tower under close surveillance, declared Tuesday that he had known all along what the decision of the supreme court would be and that Frank "knew it all along, too."

"I knew how it would be," Conley is said to have stated, "and Mr. Frank knew it, too. He knows they've got the right man down here."

When asked if he thought Providence had anything to do with directing the decision, Conley said he didn't understand exactly "what them words meant," but that "the 'Ole Marster' had something to do with it."

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Friends Carried New's to Him

an Hour After Decision —Mrs.

Frank Visits Her Husband in Tower

Leo M. Frank did not learn authoritatively of the decision against him until 11:40 o'clock. At that time Rabbi Marx and two friends went to the jail and were admitted to Frank's cell. They broke the news to him nearly an hour after the decision had been made public.

Previous to their visit rumors had been flying around the jail, and a prisoner is said to have acquainted Frank with the news of the adverse decision, but he would not believe it, thinking it was merely another rumor.

At 12:05 Mrs. Frank reached the jail, accompanied by her brother, Montague Selig. She was calm, but her pale face and reddened eyes showed that she had been much affected by the announcement of the decision. Those who saw her during the trial and when she entered the jail Tuesday declared that one would scarcely have known that she was the same woman. She went upstairs quietly, however, and remained for some time with Frank.

After they had been upstairs about three-quarters of an hour, Rabbi Marx and the two other men came down stairs.

Dr. Marx stated that Leo M. Frank had no statement to make, but one of the other men declared that Frank had received the news calmly; that he had displayed no weakening, but maintained the same remarkable stoicism which created so much comment during the long hours of the trial.

At 12:30 Emil Selig, Frank's brother-in-law, arrived at the jail, where Mrs. Frank still was. At 12:45 o'clock they were still with the prisoner.

CAN'T BELIEVE IT.

M. F. Gholstein, partner and close personal friend of Frank went to the jail shortly after 12:30 to see the prisoner. He was admitted to the cell, and when he came down, he said that Frank seems to think it impossible that his conviction has been affirmed. Mr. Goldstein stated that Frank said he did not see how the law can condemn an innocent man; and that he reiterates his innocence. The prisoner's wonderful calm remains unbroken, said his friend.

Neither did Mrs. Frank break down when she reached Frank's side, according to Mr. Gholstein; but maintained her control during her stay in the cell.

At 2 o'clock Mrs. Frank, who went to the jail a few minutes after 12 o'clock, was still with her husband. She was joined in the cell a little after 1 o'clock by Leopold Hass, one of Frank's attorneys, who spent some time with the prisoner.

At 2 o'clock Frank had not yet had his dinner, though it was to be served to him soon.

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| <i>TRIBUNAL WHICH HANDED DOWN</i> |
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FRANK DECISION

SIX JUSTICES OF THE GEORGIA
SUPREME COURT

1. Justice Hiram Warner Hill. 2. Justice Beverly Evans. 3. Justice Joseph H. Lumpkin. 4. Justice Samuel Atkinson. 5. Chief Justice William H. Fish. 6. Justice Marcus H. Beck.

PDF PAGE 5, COLUMN 5

**HABEAS CORPUS
NECESSARY**

**TO CARRY FRANK TO
COURT**

Solicitor Will Have
Him Ar-

raigned and Resentenced at Early Date

Solicitor General Hugh M. Dorsey, the prosecutor of Leo M. Frank at the original trial, said that, following the decision of the supreme court, it would be necessary to take a habeas corpus to bring Frank into the superior court again to be resentenced to be hanged.

“I don’t want to appear too hasty about this,” said Solicitor Dorsey, “but it will not be very long before I will take out this habeas corpus which will bring Frank up to be resentenced.”

From this statement, it is thought Frank will be again sentenced to be hanged at a very early date.

PDF PAGE 5, COLUMN 6

***“Outcome of Frank
Case***

Is Just and Righteous,” Says Solicitor Hugh M. Dorsey

Solicitor Hugh M. Dorsey, when informed by The Journal that the supreme court had affirmed the lower court said:

“I am not surprised. I fully expected a decision affirming the decision of the lower court. I have never heretofore authorized any newspaper statement as to my opinion concerning Frank’s guilt, though frequently the papers have quoted me as saying he was guilty.

However, I am willing now to be quoted as saying that there is not the shadow of a doubt in my mind but that the outcome is just and righteous. Frank murdered little Mary to shield himself.”

FRANK’S ATTORNEYS SILENT.

Attorneys Luther Z. Rosser and Reuben R. Arnold, chief counsel for Leo M. Frank, visited the capitol Tuesday morning after the decision of the supreme court became known. They were unable to read the decision, however, on account of the newspaper men and others who were examining the opinion. They announced that they would have no statement of any kind to make until after they had read the decision.
